

FIRST AMENDED RESOLUTION NO. 3271

A RESOLUTION AMENDING RESOLUTION NO. 3133 (A RESOLUTION IN SUPPORT OF THE CITY OF BEND'S APPLICATION FOR A PILOT PROGRAM FOR URBAN GROWTH BOUNDARY EXPANSION FOR AFFORDABLE HOUSING UNDER HB 4079) AND PROVIDING FOR IMPLEMENTATION OF A REVISED CONCEPT PLAN

Findings

- A. The Oregon Legislature passed House Bill 4079 in 2016, creating a pilot program to provide an adequate supply of land within urban growth boundaries that is dedicated to affordable housing, encourage the development of affordable housing on land dedicated to affordable housing, and protect land dedicated to affordable housing from conversion to other uses before or after the development of affordable housing ("HB 4079 Affordable Housing Pilot Project").
- B. On August 15, 2018, by Resolution 3133, the City of Bend nominated a pilot project ("Bend Pilot Project") on a site of approximately 35 acres, located on the eastern border of Bend's urban growth boundary ("UGB") at 21455 Highway 20, in Deschutes County, Oregon ("Bend Pilot Project Site"), owned by private owners. The Concept Plan for implementation of the Bend Pilot Project was attached as Exhibit A. Resolution 3133 stated that if selected for the Pilot Project, the City would implement the Concept Plan.
- C. The City submitted the Bend Pilot Project for selection by the Oregon Land Conservation and Development Commission ("Commission") for the HB 4079 Affordable Housing Pilot Project for a city with a population over 25,000.
- D. On November 16, 2018, the Commission selected the City of Bend's Affordable Housing Pilot Project Proposal and made a preliminary decision to approve the application from the City of Bend, which allows the City to use a non-traditional UGB expansion process to increase the supply of affordable housing in Bend.
- E. On August 2, 2019, the Department of Land Conservation and Development ("DLCD") issued its final order approving the Bend affordable housing project. The final order provided that it is subject to judicial review under ORS 183.484 as an order in other than a contested case upon filing of a petition for judicial review within 60 days of the order. It was not appealed.
- F. Since that time, the original developer listed the pilot site for sale. In 2020, Hayden Homes secured the parcel and has begun a revised feasibility study. Their due diligence has shown that the Pilot can be developed by Hayden Homes with limited subsidy using a different approach. Hayden intends to develop both the affordable and market rate housing themselves. In order to feasibly complete the Pilot, Hayden Homes has proposed 345 units total, with 138 of those units qualifying as affordable under the Pilot rules. City staff, in consultation with the staff at DLCD (the agency that staffs the Commission), has been working with Hayden Homes to revise the project consistent with

Resolution 3133 and the intent and purpose of HB 4079 and the implementing regulations. The site plan and phasing plan ("Revised Concept Plan") are attached as Exhibit B.

- G. Hayden Homes is a production builder based in Redmond, Oregon. Hayden Homes has built over 20,000 homes throughout the Northwest, including in Bend. Hayden Homes also operates a non-profit arm which builds affordable housing, called First Story. This uncommon organizational structure provides opportunity for this development team to perform all work "in house," without contracting with any external firms. In turn, this will allow Hayden Homes to control the timeline, including that of the affordable units, alleviating some of the risk inherent in the previous model. Hayden Homes intends to minimize external subsidy for this Pilot which is an innovative method of producing housing that is affordable. Because of this, not all the homes considered affordable under the Pilot will meet Bend's definition of Affordable Housing, as subsidy is traditionally needed to reach that level of affordability. There is tremendous demand in Bend for housing both at the traditional affordability threshold as well as for the level just above—termed "middle income housing" in Bend. Middle income housing is also in short supply and production of this housing is a Council goal. Thus, Bend is interested in supporting the pilot, despite a limited amount of Affordable Housing as defined by the Bend Municipal Code, because of the opportunity to innovate with affordability at scale with limited subsidy, as well as Council's goal to produce more middle income housing in Bend.
- H. The Bend Pilot Project Site is adjacent to the existing urban growth boundary of Bend and meets the other requirements for the HB 4079 Affordable Housing Pilot Project, including that the site is currently accessible or can be made accessible to a transit stop served by a fixed transit corridor with at least eight weekday trips in each direction, within three-quarters mile distance via sidewalk or pedestrian walkway.
- I. The City of Bend is the provider of urban services for sanitary sewer, fire protection and streets and roads for the Bend Pilot Project Site. The owner and/or developer will be required to complete the public facility and infrastructure necessary to provide these public facilities and services as set forth in the Revised Concept Plan and as required by the Bend Development Code during development review. Once infrastructure is complete, the project site can be reasonably provided with public facilities and services and the City of Bend has the capacity and financial resources to serve development on the Bend Pilot Project Site as proposed in the Revised Concept Plan.
- J. Avion Water Company will be the provider of urban services for domestic water for the portion of the Bend Pilot Project Site south of Highway 20. The owner and/or developer will be required to complete the public facility and infrastructure necessary for provision of domestic water. Once infrastructure is complete, Avion Water Company has the capacity and financial resources to serve the development on the Bend Pilot Project Site as proposed in the Revised Concept Plan, and as demonstrated by the Letter of Intent to Serve included in the project application.

- K. Bend Parks and Recreation District will be the provider of urban parks and recreation services for the Bend Pilot Project Site and has the capacity and financial resources to serve the Bend Pilot Project Site.
- L. The Bend Pilot Project Site contains a Central Oregon Irrigation District canal, which the irrigation district may require to be piped concurrent with or subsequent to development. Bend Development Code, 4.9.500.A.9. requires an application for annexation to include a signed statement from the applicant confirming the applicant has met with the irrigation district to discuss the proposed annexation, that the irrigation district reviewed the layout and design of the proposed development for any impacts on irrigation district conveyance facilities and had the opportunity to recommend reasonable protections for such facilities consistent with the irrigation district's adopted rules and regulations, system improvement plans and/or development policies, and the extent to which any identified issues have been resolved or if they have not yet been resolved, a timeline to resolve any issues.
- M. Regarding the Affordable Housing Pilot Project Site, the City is exempt from compliance with Oregon Land Use Goals 3 (Agricultural Lands), 4 (Forest Lands), 6 (Air, Water and Land Resources Quality), 8 (Recreational Needs), 9 (Economic Development), 10 (Housing), 12 (Transportation), 13 (Energy Conservation), 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Shorelands), 18 (Beaches and Dunes), and 19 (Ocean Resources), from the land need or boundary location provisions of Goal 14 (Urbanization), and Goal 11 (Public Facilities and Services), except that portion applicable to the impact of development of the pilot project site on existing and planned public facilities within the City's urban growth boundary, pursuant to OAR 660-039-0030.
- N. The Council continues to find the Bend Pilot Project Site satisfies Statewide Land Use Planning Goal 5. The Bend Pilot Project Site contains two ponds identified on the National Wetlands Inventory, which is the inventory of wetland habitat for Deschutes County, pursuant to Deschutes County Ordinance 92-045 and Deschutes County Development Code 23.112.040.3. When the Bend Pilot Project Site containing the ponds is annexed into the City, and before development is approved, the Developer must engage in the required analysis to determine whether the ponds are considered significant under Goal 5. BDC 4.6.300.B.1 or 4.5.200.D.3.c.i. The Central Oregon Irrigation District has turned off the water supply to the ponds and it may be unlikely that there are jurisdictional wetlands on the site, but that remains to be finally determined. If found to be a significant Goal 5 resource, they must be preserved.

The Revised Concept Plan proposes 4 acres of Park space to be dedicated to the Bend Park and Recreation District. Based on the provision of open space and parks, and trail connections, and the requirement that further analysis be done to determine whether the ponds are a significant resource, the City finds that the Revised Concept Plan complies with Goal 5.

- O. The Council continues to find that the proposal satisfies Goal 7 because the City Resolution No. 3271
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has considered the risks of the natural hazard wildfire in the evaluation of the Bend Pilot Project Site. There are other natural hazards such as floods and landslides that are not addressed here because the Bend Pilot Project Site is not a location where such hazards might occur. The Bend Comprehensive Plan Policy 11-5 requires the City to adopt strategies to reduce wildfire hazard on lands inside the City and included in the Urban Growth Boundary. These strategies may include the application of the International Wildland-Urban Interface Code or equivalent with modifications to allow buffers of aggregated defensible space, or similar tools, as appropriate. Prior to approval of development on the Bend Pilot Project Site, the proposal must demonstrate compliance with Statewide Planning Goals including Goal 7, as designated by the Planning Director, under BDC 4.6.300.B.1 or 4.5.200.D.3.c.i. Based on the Concept Plan and the requirements in the Bend Development Code for compliance with the Statewide Planning Goals, the City finds that the Revised Concept Plan complies with Goal 7.

P. The City is committed to expanding opportunities for and encouraging development of affordable housing. The City has implemented a number of measures to support the development of affordable housing that also support the application for the Bend Pilot Project, including:

- density bonus for affordable units,
- exemption from system development charges for affordable housing,
- property tax exemption for low income housing units,
- a construction excise tax,
- accessory dwelling units allowed in any zone without many constraints,
- parking requirement reduction for affordable housing of one on-site parking space per affordable housing unit,
- duplexes allowed in low density residential zones,
- attached residential units (townhomes) allowed in Standard Density Residential zones,
- all commercial zones allow new residential use as part of a mixed-use development,
- cottage-style housing allowed in the Standard Density (RS) and Medium Density (RM) zones.

Further, the City has implemented code requirements requiring a greater mix and density of housing through master planning properties 20 acres in size or larger, requiring affordable housing in areas of development in newly expanded urban growth boundary areas, and requiring development at 60% of the minimum density standard for master plans in the RM zone, as part of the urban growth boundary expansion. The City has a process to declare City-owned property surplus and sells the property for the price the City paid plus costs, for affordable housing development.

Q. The City has adopted applicable Comprehensive Plan policies (Policies 5-20 and 5-21) that require that guarantees be in place to ensure affordable housing units will meet affordability requirements for not less than 50 years, phasing requirements for affordable housing units and specified threshold definitions for affordable housing units at 80% of AMI (for dwelling units for sale) and 60% of

AMI (dwelling units for rent, unless the city provides support for housing at other levels of affordability. Because the state pilot project rules require affordability at 80% AMI for dwellings for sale or rent and the project as proposed by this developer meets that state criteria and proposes a new model of developer-financed needed housing, the City is supportive of dwelling units for rent at 80% AMI.

- R. The City has awarded over \$8 million through its prior limited and current full system development charge exemption, process to surplus real property, and competitive disbursement of the construction excise tax revenue to build or preserve 513 affordable housing units. The City has used \$6 million Community Development Block Grants and \$3 million Neighborhood Stabilization funding from the federal government to build or preserve 418 affordable housing units.
- S. As the Bend Pilot Project was selected by the Commission, OAR 660-039-0090 prevents the City from planning or zoning the Bend Pilot Project Site to allow a use or mix of uses not authorized by the Commission unless the City, in concert with Deschutes County, withdraws the Bend Pilot Project Site from the Bend urban growth boundary and rezones the site pursuant to law, statewide land use planning goals and land use regulations implementing the goals that regulate allowable uses of land outside urban growth boundaries.

Based on these findings, THE CITY COUNCIL OF THE CITY OF BEND RESOLVES AS FOLLOWS:

- Section 1. Based on its selection as a HB 4079 Affordable Housing Pilot Project city with a population over 25,000, the City will:
 - A. Implement the attached Revised Concept Plan, consistent with the requirements of the Bend Development Code; and
 - B. Annex the Bend Pilot Project Site within two years of an acknowledged urban growth boundary amendment to include the Bend Pilot Project Site, when it can be annexed consistent with the requirements of the Bend Development Code.
- Section 2. The City, as the provider of urban services to the Bend Pilot Project Site for sanitary sewer, fire protection, streets and roads, and a portion of the domestic water continues to support the Bend Pilot Project selection for the HB 4079 Affordable Housing Pilot Project.
- Section 3. It is expected that Cascade East Transit (CET), operated by Central Oregon Intergovernmental Council, can serve the Bend Pilot Project Site with transit as required by the Affordable Housing Pilot Project requirements and as described above in Finding D, but in the event there are additional costs related to serving the Bend Pilot Project Site consistent with the Revised Concept Plan, CET, the City, and the

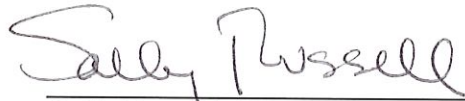
developers or owners of the Bend Pilot Project Site will work together on options for providing transit service and pedestrian walkway connections to transit sites, which may include developer and/or owner funding by agreement or condition of approval for a development application.

Section 4. This amended Resolution provides for implementation of a Revised Concept Plan for the already approved pilot project, and updates the Findings. All other provisions of Resolution 3133, not inconsistent with these changes, remain in effect.

Adopted by motion of the Bend City Council on September 1, 2021.

YES: Mayor Sally Russell
Mayor Pro Tem Gena Goodman Campbell
Councilor Barb Campbell
Councilor Melanie Kebler
Councilor Anthony Broadman
Councilor Megan Perkins
Councilor Rita Schenkelberg


NO: none


Sally Russell, Mayor

ATTEST:


Robyn Christie, City Recorder

APPROVED AS TO FORM:


Mary A. Winters, City Attorney

21455 HWY 20

PRELIMINARY LAYOUT
TAX LOTS: 1500 & 1501, MAP: 171235
BEND, OREGON
DECEMBER, 2020

MULTI-UNIT PARKING SUMMARY
TOTAL SPACES
27 (63.5% OF TOTAL)
196 (45.8% PER UNIT)
108 UNITS

- 108 Apartments (For Rent - 80% AMI)
- 74 SFR Detached (For Sale - Market-Rate)
- 39 SFR Attached (For Sale - Market-Rate)
- 68 "Cottage" SFR Detached Alley-Load (For Sale - 30% AMI) and 30 @ Market-Rate
- 56 SFR Detached Alley-Load (For Sale - Market-Rate)

345 Total Units (8.3 d.u. per acre)
 - 108 Rental Affordable units (80% AMI)
 - 108 Rental Market-Rate units (80% AMI)
 - 207 For-Sale Market-Rate Units

- 158 Marketable units (45% of total unit count)
 - 207 Market-Rate units (60% of total unit count)

PROVIDED PRELIMINARY PARKING SPACES TO PROPERTY LINE TO PROPERTY LINE

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PROJECT: PROPOSED SUBDIVISION
 PROJECT LOCATION: 21455 HIGHWAY 20
 CLIENT: HAYDEN HOMES

SHEET TITLE: PRELIMINARY LOT LAYOUT OPTION 7

JOB NO. 20-101
 DRAWN BY: JW
 DRAWING: OPT7



Total Proposed Landscaped/Open Space: 61.8 ACRES
 - 4.50 acre Park
 - 0.88 acre COID Canal/Pedestrian Trail
 - 0.49 acre Pedestrian Path
 - 0.49 acre Pedestrian Linkage

